

CMBB

1 Greg Fox, Councilperson,
2 and Mary Kay Sigaty, Councilperson,
3 Petitioners,
4 ZRA 117

* PLANNING BOARD OF

HOWARD COUNTY COUNCIL
RECEIVED

HOWARD COUNTY, MARYLAND

* * * * *
2010 APR 22 A 10: 26

MOTION: To recommend denial of the petitioners' proposal as written and subsequent language modification. To make recommendations which permit Apiary use under specific conditions.

ACTION: *Recommended denial of petition as written and to make recommendations; Vote 4 to 0.*

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RECOMMENDATION

On November 5, 2009 and February 4, 2010, the Planning Board of Howard County, Maryland, considered the petition of Greg Fox, Councilperson; and Mary Kay Sigaty, Councilperson, to amend Section 128.A.4 (Supplementary Zoning District Regulations) to allow apiaries to be located within the current 200 foot setback on residential lots under certain conditions; and to create a new Section 128.M to permit apiaries as an accessory use..

The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation were presented to the Board for its consideration. The Department of Planning and Zoning recommended that the Petitioner's request be approved with text modifications.

Councilman Greg Fox and Councilwoman Mary Kay Sigaty presented their case by calling on various experts for background information and to answer Board questions.

November 5, 2009 Supporting Testimony:

Allen Hayes, President, Howard County Beekeepers Association spoke about the bee flight path and water source. He said that bees take the narrowest flight path available and once they are six feet up in the air, they stay at least at that height. He said that a water source can range from a five-gallon bucket to a pond with circulating water and needs to be in the same yard as the bees. Ms. CitaraManis asked if there would be honey sales and Mr. Hayes replied that most people do not keep enough hives to produce enough honey for sales.

Jerry Fischer, the Maryland State Department of Agriculture Apiary Inspector spoke in support and gave the Board copies of Baltimore City and Baltimore County Code regarding beekeeping. He said the apiary inspection program is a regulatory operation and all colonies must be registered with the state. He said Howard County has about 84 beekeepers and that 62 percent of beekeepers have less than two colonies. He said the inspection process regulates diseases and does not regulate individual colony locations on a property. He said the number of hives kept is generally insufficient to support honey sales.

1 Steve McDaniel, President, Maryland State Beekeepers Association, said he fully supports the
2 amendment. He said beekeeping is a safe family hobby. He said in his opinion, many people who oppose
3 the amendment have been influenced by movies which give an incorrect impression of swarming bees. He
4 said fears about stinging are based on mistaken identity of bees as yellow jackets and wasps. He said honey
5 bees only eat pollen, nectar and water and their role is to collect food for the hive, and they are reluctant to
6 sting because they will die as a result. He stated that he has kept colonies in urban areas for 30 years, and at
7 one time had 12 colonies on an apartment balcony and no one was ever bothered by the bees.

8 Howie Feaga, Howard County Farm Bureau, spoke in support of the amendment. He said that in
9 response to questions about commercial honey sales, a commercial operation that he once visited which
10 sold to bakeries had six hives and a very large extractor area and that the area needed to support honey sales
11 would be much larger than area needed by a hobbyist beekeeper.

12 Georgia Eacker, University of Maryland Master Gardeners Program, spoke in support and
13 discussed the importance of bees for pollination.

14 Councilman Fox read testimony from Kathy Zimmerman, Agricultural Marketing specialist,
15 Howard County Economic Development Authority stating the importance of bees to the agricultural
16 community.

17 A board member asked Councilwoman Sigaty about where hives might be located for the
18 educational programs mentioned in the amendment. Councilwoman Sigaty replied that community gardens,
19 schools or the Robinson Nature Center are examples of appropriate locations to support the intent to
20 educate the public about bee hives. She asked the Planning Board to consider the language in the proposed
21 amendment so that bees would be directed upward and outward in their flight path, and also suggested an
22 additional text modification. Mr. Fischer said that bees take the most efficient flight path and the bees will
23 go up and over any barrier. He said this is best addressed by beekeepers adhering to best management
24 practices required by the state and that beekeepers would know the correct distance between a hive and a
25 barrier. One board member commented that the Baltimore City language is preferable because it does not
26 name a specific type of barrier.

27 October 22, 2009 Opposition Testimony:

28 Sam Pepperone testified that he is not opposed to bees, but believes there is an adequate supply of
honey bees in the County. He said he is very opposed to allowing hives in small yards for reasons of injury,
inconvenience and loss of property value to neighboring property owners. He said a six foot fence would
not provide adequate protection. Mr. Pepperone asked that the Planning Board consider the impacts on a
beekeeper's neighbor. He said there has been testimony that honey bees rarely sting, but that they will sting
if provoked, and that there is ample chance of bees being stepped on in densely populated areas. He said
that bees will most certainly go to water sources on neighboring properties and this will increase the

1 chances of stinging. He said when a beekeeper opens a hive, the keeper is wearing protective clothing, but
2 neighbors have no warning that the hive might be opened and do not have the same opportunity to be
3 properly equipped. He said the current regulations should be retained and that hives should be permitted in
4 rural areas only.

5 Nancy Pilotte spoke in opposition to beekeeping in the New Town district because of the close
6 proximity of homes and the risk of injury to homes and homeowners. She questioned why bees should be
7 allowed closer to a neighbor's property than the beekeeper's own house, and said she is concerned about
8 allergic reactions. She said at the very least, hives should be equidistant between the beekeeper's house and
9 the closest neighbor.

10 Eva Lambright, River Hill Homeowner's Association said the Association has concerns which were
11 expressed in an email to the Planning Board. She said the Association suggests a pre-inspection be required
12 prior to hives being installed, and that a permit be required. She said the Association is very concerned
13 about the operation of honey sales businesses.

14 Greg Schwind testified that he is opposed to allowing hives in New Town because the suggested
15 setback is not large enough for an area with such density. He said bees are aggravated by loud noises and
16 noise from lawn mowers, traffic, and children could cause a swarm. He requested that the Planning Board
17 recommend limiting the number of hives, increasing the distance from lot lines to 50 feet, and not
18 permitting bees in New Town and all zoning districts with density greater than two units per acre.

19 **Other Testimony:**

20 Twenty two additional people testified in support of the amendment for reasons expressed in
21 previous testimony.

22 **February 4, 2010 Work Session:**

23 **Discussion:**

24 The Board acknowledged the large volume of emails received and participants at the hearings. The
25 Board noted that most persons resided outside of Howard County and for those who were residents most
26 lived in the Rural West and not in the Planned Service Area which would be the most affected by the
27 change in regulations.

28 The Board began its discussion with the fundamental question of whether bees/apiaries were
appropriately addressed in the current regulations as a farm animal and if apiaries were animal shelters like
rabbit hutches, chicken coops, pig pens etc. The Board unanimously agreed that bees are not farm animals
and therefore hives should not be subject to the same setback as animal shelters. Furthermore, the existence
of beekeeping isn't typically a fundamental accessory to farming, meaning that most active farmers keep

1 bees as a companion piece to their farming activities. The Board recognized the evolution in beekeeping
2 from a supplement to farming to include naturalists/hobbyists and rural as well as suburban beekeepers.

3 As such, the Board considers the current regulatory interpretation and approach to beekeeping as
4 ineffective and recommends regulations reflect actual occurrences and a developed environmental policy.
5 However, the Board does not consider the proposed ZRA which attempts to retro-fit existing regulations
6 with a broad, one-size fits all approach as the best solution for the County. The Board concluded that the
7 existing ZRA language is inadequate to address citizens concerns. Instead the regulations should be
8 clearer, acknowledge differences in appropriateness of the level of use within and outside the Planned
9 Service Area, and balance citizen health/welfare concerns (Section 100), density implications, and the goal
10 of a supportive environmental policy.

11 Thus, the Board recommends to be established a definition, quantities for commercial and non-
12 commercial uses, and universal as well as PSA/non-PSA specific requirements and a prohibition of use in
13 certain zones (RS-15, Rs-12, RA-8, POR, and PSC). Furthermore, the Board does not support including
14 apiaries in MXD or NT zones unless it is on governmental or community open space such as parks or
15 community gardens given the criteria included. The Board agrees fully with River Hill Village's concerns
16 pertaining to placement attached-dwelling parcels, setback sufficiency, side yard placement, minimum
17 fence length, minimum water supply, covenant conflicts, and the potential for harm for those conducting
18 Architectural Inspections to name a few. The Village Board supports apiaries to be approved via the
19 conditional use process. The Board also strongly disagrees with the petitioners' suggestion to permit apiary
20 placement on single-family attached parcels as in direct conflict with Section 100 of the zoning regulations.

21 The Board carefully reviewed the suggestion of requirements by the petitioner and those of the
22 public which included other jurisdictions in and outside of Maryland and as a result recommends:

23 **Universal Requirements regardless of in or outside of PSA**

- 24 • Establish hives and apiaries as a separately defined category, since bees are not animals
- 25 • < 5 hives to be for non-commercial purposes
- 26 • Require commercial purposes or 5 hives/colonies/apiaries to be approved as a conditional use
- 27 • current registration by MD Department of Agriculture and comply with *Maryland Department of*
28 *Agriculture regulations and best practices*
- Proof of registration readily available for inspection
- Bee movement to and from the hive does not unreasonably interfere with proper enjoyment of the
property of others, with the comfort of the public or with the use of any public right-of-way
- Fresh water source located within 50 feet of the hive or ½ the distance to nearest natural water source
- Apiary entrance placed facing away from neighboring dwellings

- No placement in front-yards
- Positions all colonies (hives) to ensure flyaways are more than 6 feet above the ground when crossing property lines
- No hive shall be maintained within 25 feet of any dwelling except that of the petitioner or any street or public right-of-way

Requirements for outside of PSA

- Permitted as a matter of right on lots greater than 20,000 square feet
- Reduce setback requirement to 75 feet from adjoining property line or dwelling other than the beekeeper.
- Encourage and permit placement on County land or agricultural preservation land, forest conservation land or open space but not just limited to park land or nature centers.

Requirements for inside PSA

- Minimum single family detached lot size of 40,000 square feet.
- No placement in side yards.
- Encourage and permit placement on County land (not just park land, preserves, nature centers, etc.), forest conservation land, and government community gardens.
- Consider permitting by conditional use on CA open space land or community gardens. Consider appropriateness of placing on M-1 or M-2 land.
- Hives must be 75 feet from adjoining property line or dwelling other than the beekeeper.
- Hive may not be closer to adjoining property dwellings than beekeeper's dwelling.
- Require a barrier to free flight (wall or shrubbery) between the property line and colonies where the barrier is at least 6 feet in height and sufficiently width to facilitate earlier ascent by the bees.

The Council may also wish to consider whether it is appropriate to have beekeeping as a conditional use within the Planned Service Area to ensure that community concerns are adequately reviewed, best practices are attested to and that unique circumstances such as lot shape and bees' need for sunlight etc are considered.

Motion and Vote:

Mr. Grabowski made a motion that to recommend denial of the petition, the Technical Staff Report, and the Petitioners' language modification. Ms. CitaraManis seconded the motion. Ms. Dombrowski recommended that the Board send a recommendation to the County Council that the revisions noted above be incorporated into any proposed text for zoning regulation amendments. The vote was 4 to 0 and the motion passed.

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 22 day of

April

March, 2010, recommends that the Petitioner's request to amend Section 128.A.4 and to create 128.M of the Zoning Regulations be DENIED as written; however, an amendment is appropriate with the noted recommendation.

HOWARD COUNTY PLANNING BOARD

Linda A. Dombrowski / PB
Linda A. Dombrowski, Chairperson

David Grabowski / PB
David Grabowski, Vice Chairperson

Tammy J. Citara Manis / PB
Tammy J. Citara Manis

Paul Yelder / PB
Paul Yelder

ATTEST:

Marsha S. McLaughlin
Marsha S. McLaughlin
Executive Secretary